

2013 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB181)

Received: 5/10/2013 Received By: mgallagh
Wanted: As time permits Same as LRB: a0397
For: Mike Kuglitsch (608) 267-5158 By/Representing: Matt
May Contact: Drafter: mgallagh
Subject: Econ. Development - bus. dev. Addl. Drafters:
Econ. Development - misc. Extra Copies:

Submit via email: YES
Requester's email: Rep.Kuglitsch@legis.wisconsin.gov
Carbon copy (CC) to: michael.gallagher@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

House venture capital program under DOA

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mgallagh 5/14/2013	kfollett 5/16/2013	jfrantze 5/17/2013	_____			
/P1	mgallagh 5/24/2013	kfollett 5/24/2013	rschluet 5/24/2013	_____	sbasford 5/17/2013		
/1				_____	mbarman 5/24/2013	mbarman 5/24/2013	

FE Sent For:

<END>

05-24-2013
("1")

See attached

Requested by
Matt Spencer

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/?	mgallagh 5/14/2013	kfollett 5/16/2013	jfrantze 5/17/2013	_____			
/P1		11kf 5/24	52413	_____	sbasford 5/17/2013		

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/?	mgallagh	1P/15f 5/17	27 5/16	27 5/16	5 14		
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FE Sent For:

<END>

Gallagher, Michael

From: Spencer, Matt
Sent: Thursday, May 09, 2013 4:16 PM
To: Gallagher, Michael
Subject: Subsitute Amendment for AB 181

We want to create a substitute amendment for assembly bill 181. The sub-amendment should require DOA to fill all the requirements under the bill instead of WEDC.

Could you also include the amendment for AA 1 for AB 181.

Matthew Spencer
Office of Representative Mike Kuglitsch
(608) 267-5158

Gallagher, Michael

From: Spencer, Matt
Sent: Wednesday, May 15, 2013 1:33 PM
To: Gallagher, Michael
Subject: RE: Sub

In the sub could we make the selection committee 5 total members: 3 from SWIB, 1 from DOA, 1 from Wisconsin Tech Council

Matthew Spencer
Office of Representative Mike Kuglitsch
(608) 267-5158

From: Gallagher, Michael
Sent: Monday, May 13, 2013 12:56 PM
To: Spencer, Matt
Subject: RE: Sub

Yes. I'll see how it meshes. We may have to make some adjustments. I'll let you know.

Mike

Mike Gallagher
Attorney
Wisconsin Legislative Reference Bureau
(608) 267-7511

From: Spencer, Matt
Sent: Monday, May 13, 2013 12:54 PM
To: Gallagher, Michael
Subject: Sub

Could you include LRBa0414 in the substitute

Matthew Spencer
Office of Representative Mike Kuglitsch
(608) 267-5158

Gallagher, Michael

From: Spencer, Matt
Sent: Friday, May 10, 2013 7:45 AM
To: Gallagher, Michael
Subject: RE: Subsitute Amendment for AB 181

Yes sir.

Sent via the Samsung Galaxy STMIII, an AT&T 4G LTE smartphone

----- Original message -----

From: "Gallagher, Michael" <Michael.Gallagher@legis.wisconsin.gov>
Date:
To: "Spencer, Matt" <Matt.Spencer@legis.wisconsin.gov>
Subject: RE: Subsitute Amendment for AB 181

I assume you want to exempt the selection of investment manager from the state procurement requirements concerning low bids, right?

Mike Gallagher

Attorney

Wisconsin Legislative Reference Bureau

(608) 267-7511

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Sent: Thursday, May 09, 2013 4:16 PM
To: Gallagher, Michael
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Could you also include the amendment for AA 1 for AB 181.

Matthew Spencer

Office of Representative Mike Kuglitsch

(608) 267-5158

Gallagher, Michael

From: Spencer, Matt
Sent: Friday, May 10, 2013 8:42 AM
To: Gallagher, Michael
Subject: RE: Subsitute Amendment for AB 181

Yes, DOA can appoint members and SWIB would still have a majority.

Matthew Spencer
Office of Representative Mike Kuglitsch
(608) 267-5158

From: Gallagher, Michael
Sent: Friday, May 10, 2013 8:15 AM
To: Spencer, Matt
Subject: RE: Subsitute Amendment for AB 181

A couple of other questions: Do you want the secretary of administration to appoint the selection committee members not appointed by SWIB? Do you still want SWIB to appoint a majority of the members of the selection committee?

Mike Gallagher
Attorney
Wisconsin Legislative Reference Bureau
(608) 267-7511

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Sent: Friday, May 10, 2013 7:45 AM
To: Gallagher, Michael
Subject: RE: Subsitute Amendment for AB 181

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Subject: Sub

Could you include LRBa0414 in the substitute

Matthew Spencer
Office of Representative Mike Kuglitsch
(608) 267-5158



State of Wisconsin
2013 - 2014 LEGISLATURE

CORRECTED
COPY



LRB-1812/2

MPG:kjf:ph

2013 ASSEMBLY BILL 181

50052/P1

Inserts

D-Note

April 29, 2013 - Introduced by Representatives KUGLITSCH, CLARK, SUDER, TAUCHEN, KLENKE, J. OTT, PETRYK, KAHL, LEMAHIEU, A. OTT, JAGLER, HONADEL, KOLSTE, BIES, SMITH, BROOKS, KLEEFISCH, TITTL, NYGREN, SARGENT, ENDSLEY, SCHRAA and STONE, cosponsored by Senators DARLING, T. CULLEN, LEIBHAM, GUDEX, SCHULTZ and L. TAYLOR. Referred to Committee on Jobs, Economy and Mining.

Rezen

- 1 AN ACT *to create* 25.17 (72), 238.03 (4) and 238.155 of the statutes; **relating to:**
- 2 venture capital investment program.

Analysis by the Legislative Reference Bureau

This bill directs the Wisconsin Economic Development Corporation (WEDC) to establish an economic development program that operates like what is often referred to as a "fund of funds." Typically, under a fund of funds investment model, an investment fund invests moneys with other investment funds that in turn invest those moneys directly in operating businesses. Under this bill, WEDC must contract with an investment manager to manage investments in venture capital funds and Wisconsin businesses.

Before WEDC contracts with an investment manager, WEDC and the State of Wisconsin Investment Board (SWIB) must form a committee to select the investment manager. A majority of the committee's members must be representatives of SWIB. WEDC's proposed contract with the investment manager is subject to passive review by the Joint Committee on Finance (JCF). However, under the bill, JCF's review of the contract is limited to determining whether the contract is contrary to the bill or fails to implement an applicable provision of the bill.

The bill requires WEDC to pay \$25,000,000 to the investment manager for investments in venture capital funds. The bill also requires the investment manager to contribute to those investments \$300,000 of its own moneys and \$5,000,000 raised from other funding sources. The investment manager must attempt to invest all of those moneys within 24 months after the date the investment manager executes the contract with the corporation, and the investment manager must invest those

* Analysis Insert *

ASSEMBLY BILL 181

moneys in at least four different venture capital funds. The investment manager may not invest more than \$10,000,000 in any one venture capital fund.

The bill requires the investment manager to contract with each venture capital fund that receives moneys under the program created in the bill. Under that contract, each venture capital fund must do all of the following:

1. Invest all of the moneys the venture capital fund receives under the program in businesses that are headquartered in Wisconsin and employ at least 50 percent of their full-time employees in Wisconsin and invest at least one-half of those moneys in businesses that employ fewer than 150 full-time employees when the venture capital fund first invests in the business under the program. If, within three years after the venture capital fund makes an investment in a business under the program, the business relocates its headquarters outside of Wisconsin or fails to employ at least 50 percent of its full-time employees in Wisconsin, the venture capital fund must recover the total amount of moneys the venture capital fund invested in the business under the program, including any matching funds, and reinvest those moneys in one or more eligible businesses, subject to the bill's requirements.

2. Invest at least one-half of those moneys in businesses within 24 months after the venture capital fund receives the moneys and invest all of the moneys in businesses within 48 months.

3. Invest all of those moneys in businesses in the agriculture, information technology, engineered products, advanced manufacturing, or medical devices and imaging industries and attempt to ensure that those moneys are invested in businesses that are diverse with respect to geographic location within Wisconsin.

4. At least match the amount of the moneys the investment manager contributes to an investment in a business with an investment of moneys in that business that the venture capital fund has raised from other funding sources. The bill also requires the investment manager to attempt to ensure that, on average, a venture capital fund invests \$2 in a business for every \$1 the investment manager contributes to the investment in that business.

5. Provide to the investment manager the information necessary for the investment manager to make its annual report to WEDC, described below.

6. Disclose to the investment manager and to WEDC any interest that the venture capital fund or one of its owners or other representatives or agents holds in a business in which the venture capital fund invests or intends to invest moneys under the program.

Similarly, the bill requires the investment manager to disclose to WEDC any interest that it or an owner or other representative or agent of the investment manager holds in a venture capital fund that receives moneys under the program or a business in which a venture capital fund invests such moneys. Also, the investment manager's profit-sharing agreement with a venture capital fund under the program must be on terms that are substantially equivalent to the terms applicable for other funding sources of the venture capital fund.

Under the bill, the investment manager must set aside and pay to the state its proceeds from investments of the moneys contributed to the program by WEDC until

ASSEMBLY BILL 181

the investment manager has paid the state \$25,000,000, the amount of WEDC's contribution. After that point, the investment manager must pay 90 percent of its proceeds from such investments to the state.

The bill requires the investment manager to submit a report to WEDC each year within 90 days after the end of the investment manager's fiscal year that includes all of the following:

1. An audit of the investment manager's financial statements performed by an independent certified public accountant.

2. The investment manager's internal rate of return from investments in venture capital funds under the program.

3. For each venture capital fund that received an investment under the program: a) the name and address of the venture capital fund; b) the amount of the investment; and c) an accounting of any fees the venture capital fund paid to itself or any principal or manager.

4. For each business in which a venture capital fund held an investment of moneys contributed by the investment manager under the program: a) the name and address of the business; b) a description of the nature of the business; c) an identification of the venture capital fund that made the investment; d) the amount of each investment in the business and the amount contributed by the venture capital fund; e) the internal rate of return realized by the venture capital fund on the investment; and f) a statement of the number of employees the business employed when the venture capital fund first invested in the business under the program, the number of employees the business employed on the first day of the investment manager's fiscal year, and the number of employees the business employed on the last day of the investment manager's fiscal year.

WEDC must submit the investment manager's report to the legislature.

The bill also requires WEDC to submit to JCF two progress reports, one in 2015 and one in 2018. Each report must include all of the following:

1. A comprehensive assessment of the performance to date of the investment program created in the bill.

2. Any recommendations WEDC has for improving the investment program and the specific actions WEDC intends to take or proposes to be taken to implement those recommendations.

3. Any recommendations SWIB has for improving the investment program and the specific actions SWIB proposes to be taken to implement those recommendations.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1

SECTION 1. 25.17 (72) of the statutes is created to read:

ASSEMBLY BILL 181

SECTION 1

1 25.17 (72) Appoint the board's representatives to the committee under s.
 2 238.155 (3) (a).

3 SECTION 2. 238.03 (4) of the statutes is created to read:

4 238.03 (4) The board shall appoint the corporation's representatives to the
 5 committee under s. 238.155 (3) (a).

6 SECTION 3. 238.155 of the statutes is created to read:

7 238.155 Fund of funds investment program. (1) DEFINITION. In this

8 section, "investment manager" means the person the committee selects under sub.

9 (3) (a)

10 (2) ESTABLISHMENT OF PROGRAM. The corporation shall establish an economic
 11 development program for the investment of moneys in venture capital funds that
 12 invest in businesses located in this state.

13 (3) SELECTION OF INVESTMENT MANAGER. (a) The investment board and the

14 corporation shall form a committee, consisting of representatives of the investment
 15 board and the corporation, to select the investment manager. The majority of the
 16 committee's members shall be representatives of the investment board. The
 17 committee shall select a person as investment manager that has expertise in the
 18 venture capital or private equity asset class.

19 (b) 1. The corporation shall notify in writing the joint committee on finance of
 20 the investment manager selected under par. (a). The notice shall include the
 21 corporation's proposed contract with the investment manager.

22 2. If, within 14 working days after the date of the corporation's notice under
 23 subd. 1, the cochairpersons of the joint committee on finance do not notify the
 24 corporation that the committee has scheduled a meeting to determine whether the
 25 corporation's proposed contract with the investment manager is contrary to this

Insert

Secretary

department's

16.295

16.295
(B)

The secretary shall appoint the department's representatives to the committee.
 The joint committee or Finance receives the legislative and it bureau letter of review under Par. (a) 2.

contract approval
(CS)

department's

ASSEMBLY BILL 181

annually for no more than 4 years, 1 percent of the total money designated under sub. (5)(b) 1. and raised under sub. (5)(b) 30

1 section or fails to implement an applicable provision of subs. (4) to (7), the corporation
2 and investment manager may execute that contract. If, within 14 working days after
3 the date of that notice, the cochairpersons of the committee notify the corporation
4 that the committee has scheduled that meeting, the corporation and investment
5 manager may execute the contract unless the committee determines at that meeting
6 that the contract, in whole or in part, is contrary to this section or fails to implement
7 an applicable provision of subs. (4) to (7).

department
secretary

8 (4) CONTRACT WITH INVESTMENT MANAGER; DISCLOSURE REQUIREMENT. (a) Subject
9 to sub. (3) (b), the corporation shall contract with the investment manager. The
10 contract shall establish the investment manager's compensation, including any
11 management fee. Any management fee may not exceed \$250,000 annually. The
12 investment manager's total compensation under the contract, including all
13 management fees paid, may not exceed \$800,000.

14 (b) The investment manager shall disclose to the corporation any interest that
15 it or an owner, stockholder, partner, officer, director, member, employee, or agent of
16 the investment manager has in a venture capital fund that receives moneys under
17 sub. (5) (b) or a business in which a venture capital fund invests those moneys.

18 (5) INVESTMENTS IN VENTURE CAPITAL FUNDS. (a) Subject to sub. (4) (a), the
19 corporation shall pay \$25,000,000 to the investment manager in fiscal year 2013-14.

20 (b) The investment manager shall invest the following moneys in at least 4
21 venture capital funds:

22 1. The moneys under par. (a).

23 2. At least \$300,000 of the investment manager's own moneys.

24 3. At least \$5,000,000 that the investment manager raises from sources other

25 than the corporation.

department

from the appropriation under 20.505(1)(fm)

ASSEMBLY BILL 181

Commit

1 (c) 1. Of the moneys designated under par. (b), the investment manager may
2 not invest more than \$10,000,000 in a single venture capital fund.

3 2. Of the moneys designated under par. (b), the investment manager shall
4 attempt to invest at least one-half of those moneys in venture capital funds within
5 12 months after the date the investment manager executes the contract under sub.

6 (4) (a), and the investment manager shall attempt to invest all of those moneys in
7 venture capital funds within 24 months after that date.

8 (d) The investment manager shall contract with each venture capital fund that
9 receives moneys under par. (b). Each contract shall require the venture capital fund
10 to do all of the following:

11 1. Invest all of the moneys it receives under par. (b) in one or more businesses
12 that are headquartered in this state and employ at least 50 percent of their full-time
13 employees, including any subsidiary or other affiliated entity, in this state, and
14 invest at least one-half of those moneys in one or more businesses that employ fewer
15 than 150 full-time employees, including any subsidiary or other affiliated entity,
16 when the venture capital fund first invests moneys in the business under this
17 section. If, within 3 years after the venture capital fund makes an investment in a

18 business under this subdivision, the business relocates its headquarters outside of
19 this state or fails to employ at least 50 percent of its full-time employees, including
20 any subsidiary or other affiliated entity, in this state, the venture capital fund shall
21 recover from the business the total amount of moneys the venture capital fund
22 invested in the business under this subdivision and subd. 4. and reinvest those
23 moneys in one or more businesses that are eligible to receive an investment under
24 this subdivision, subject to the requirements of this section.

to investments

Make new investments in an amount equal to

Insert 6-17

ASSEMBLY BILL 181

1 2. Invest at least one-half of any moneys it receives under par. (b) ^{Commit} in businesses
2 within 24 months after the date it receives those moneys and invest all of those ^{to investments}
3 moneys ^{Commit} in businesses within 48 months after that date.

4 3. Invest all of the moneys it receives under paragraph ^{par.} (b) in businesses in the
5 agriculture, information technology, engineered products, advanced manufacturing,
6 or medical devices and imaging industries and attempt to ensure that all of those
7 moneys are invested in businesses that are diverse with respect to geographic
8 location within this state.

9 4. At least match any moneys it receives under par. (b) and invests in a business
10 with an investment in that business of moneys the venture capital fund has raised
11 from sources other than the investment manager. The investment manager shall
12 attempt to ensure that, on average, for every \$1 a venture capital fund receives under
13 par. (b) and invests in a business, the venture capital fund invests \$2 in that business
14 from sources other than the investment manager.

15 5. Provide to the investment manager the information necessary for the
16 investment manager to complete the annual report under sub. (7) (a).

17 6. Disclose to the investment manager and the corporation any interest that
18 the venture capital fund or an owner, stockholder, partner, officer, director, member,
19 employee, or agent of the venture capital fund holds in a business in which the
20 venture capital fund invests or intends to invest moneys received under par. (b).

21 (e) The investment manager's profit-sharing agreement with each venture
22 capital fund that receives moneys under par. (b) shall be on terms that are
23 substantially equivalent to the terms applicable for other funding sources of the
24 venture capital fund.

department

and the quarterly report under sub. (7)(c)

ASSEMBLY BILL 181

SECTION 3

State CS

(6) SPECIAL REQUIREMENTS FOR INVESTMENTS OF MONEYS CONTRIBUTED BY THE CORPORATION. (a) The investment manager shall hold in an escrow account its gross proceeds from all investments of the moneys designated under sub. (5) (b) 1. until the investment manager satisfies par. (b).

(b) At least annually, the investment manager shall pay any moneys held under par. (a) to the secretary of administration for deposit into the general fund until the investment manager has paid a total of \$25,000,000 under this paragraph.

(c) After the investment manager satisfies par. (b), the investment manager shall pay 90 percent of its gross proceeds from investments of the moneys designated under sub. (5) (b) 1. to the secretary of administration for deposit into the general fund.

(7) ANNUAL REPORT OF THE INVESTMENT MANAGER. (a) Annually, within 90 days after the end of the investment manager's fiscal year, the investment manager shall submit a report to the corporation for that fiscal year that includes all of the following:

1. An audit of the investment manager's financial statements performed by an independent certified public accountant.

2. The investment manager's internal rate of return from investments under sub. (5) (b).

3. For each venture capital fund that contracts with the investment manager under sub. (5) (d), all of the following:

a. The name and address of the venture capital fund.

b. The amounts invested in the venture capital fund under sub. (5) (b).

c. An accounting of any fee the venture capital fund paid to itself or any principal or manager of the venture capital fund.

d. The venture capital fund's average internal rate of return on its investments of the moneys it received under sub. (5) (b).

ASSEMBLY BILL 181

1 4. For each business in which a venture capital fund held an investment of
2 moneys the venture capital fund received under sub. (5) (b), all of the following:

3 a. The name and address of the business.
4 b. A description of the nature of the business.
5 c. An identification of the venture capital fund that made the investment in the
6 business.

7 d. The amount of each investment in the business and the amount invested by
8 the venture capital fund from funding sources other than the investment manager.

9 e. The internal rate of return realized by the venture capital fund on the
10 investment in the business.

11 f. A statement of the number of employees the business employed when the
12 venture capital fund first invested moneys in the business that the venture capital
13 fund received under sub. (5) (b), the number of employees the business employed on
14 the first day of the investment manager's fiscal year, and the number of employees
15 the business employed on the last day of the investment manager's fiscal year.

16 (b) No later than 10 days after it receives the investment manager's report
17 under par. (a), the corporation ^{department} shall submit the report to the chief clerk of each house
18 of the legislature, for distribution to the legislature under s. 13.172 (2).

19 (8) CORPORATION = PROGRESS REPORTS. In 2015 and 2018, no later than March 1,
20 the corporation shall submit reports to the joint committee on finance that include
21 all of the following:

22 (a) A comprehensive assessment of the performance to date of the investment
23 program under this section.

department

upon the venture capital fund's exit from

Insert 9-18

ASSEMBLY BILL 181

SECTION 3

department

1 (b) Any recommendations the corporation has for improvement of the
2 investment program under this section and the specific actions the corporation
3 intends to take or proposes to be taken to implement those recommendations.

4 (c) Any recommendations the investment board has for improvement of the
5 investment program under this section and the specific actions the investment board
6 proposes to be taken to implement those recommendations.

7

(END)

Insert 10-6

D-Note

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0052/P1ins
MPG:.....

1

ANALYSIS INSERT

(DOA)

X This substitute amendment directs the Department of Administration to establish an economic development program that operates like what is often referred to as a “fund of funds.” Typically, under a fund of funds investment model, an investment fund invests moneys with other investment funds that in turn invest those moneys directly in operating businesses. Under the substitute amendment, DOA must contract with an investment manager to manage investments in venture capital funds and Wisconsin businesses.

Before DOA contracts with an investment manager, DOA and the State of Wisconsin Investment Board (SWIB) must form a committee to select the investment manager. A majority of the committee’s members must be representatives of SWIB.

DOA’s proposed contract with the investment manager must be reviewed by the Legislative Audit Bureau and is subject to passive review by the Joint Committee on Finance (JCF) based on the audit bureau’s opinion of the contract. JCF’s passive review is limited to determining whether the contract is contrary to the substitute amendment or fails to implement an applicable provision of the substitute amendment.

The substitute amendment requires DOA to pay \$25,000,000 to the investment manager for investments in venture capital funds. The substitute amendment also requires the investment manager to contribute to those investments \$300,000 of its own moneys and \$5,000,000 raised from other funding sources. The investment manager must commit all of those moneys to investments within 24 months after the date the investment manager executes the contract with DOA, and the investment manager must invest those moneys in at least four different venture capital funds. The investment manager may not invest more than \$10,000,000 in any one venture capital fund.

The substitute amendment requires the investment manager to contract with each venture capital fund that receives moneys under the program. Under that contract, each venture capital fund must do all of the following:

1. Invest all of the moneys the venture capital fund receives under the program in businesses that are headquartered in Wisconsin and employ at least 50 percent of their full-time employees in Wisconsin and invest at least one-half of those moneys in businesses that employ fewer than 150 full-time employees when the venture capital fund first invests in the business under the program. If, within three years after the venture capital fund makes an investment in a business under the program, the business relocates its headquarters outside of Wisconsin or fails to employ at least 50 percent of its full-time employees in Wisconsin, the business must pay to the venture capital fund an amount equal to the amount of moneys contributed by the state that the venture capital fund invested in the business under the program, and the venture capital fund must reinvest those moneys in one or more eligible businesses, subject to the substitute amendment’s requirements.

2. Commit at least one-half of those moneys to investments in businesses within 24 months after the venture capital fund receives the moneys and commit all of the moneys to investments in businesses within 48 months.

3. Invest all of those moneys in businesses in the agriculture, information technology, engineered products, advanced manufacturing, or medical devices and imaging industries and attempt to ensure that those moneys are invested in businesses that are diverse with respect to geographic location within Wisconsin.

4. At least match the amount of the moneys the investment manager contributes to an investment in a business with an investment of moneys in that business that the venture capital fund has raised from other funding sources. The substitute amendment also requires the investment manager to ensure that, on average, a venture capital fund invests \$2 in a business for every \$1 the investment manager contributes to the investment in that business.

5. Provide to the investment manager the information necessary for the investment manager to make its reports to DOA, described below.

6. Disclose to the investment manager and to DOA any interest that the venture capital fund or one of its owners or other representatives or agents holds in a business in which the venture capital fund invests or intends to invest moneys under the program.

Similarly, the substitute amendment requires the investment manager to disclose to DOA any interest that it or an owner or other representative or agent of the investment manager holds in a venture capital fund that receives moneys under the program or a business in which a venture capital fund invests such moneys. Also, the investment manager's profit-sharing agreement with a venture capital fund under the program must be on terms that are substantially equivalent to the terms applicable for other funding sources of the venture capital fund.

Under the substitute amendment, the investment manager must set aside and pay to the state its proceeds from investments of the moneys contributed to the program by the state until the investment manager has paid the state \$25,000,000, the amount of the state's contribution. After that point, the investment manager must pay 90 percent of its proceeds from such investments to the state.

The substitute amendment requires the investment manager to submit a report to DOA each year within 120 days after the end of the investment manager's fiscal year that includes all of the following:

1. An audit of the investment manager's financial statements performed by an independent certified public accountant.

2. The investment manager's internal rate of return from investments in venture capital funds under the program.

3. For each venture capital fund that received an investment under the program: a) the name and address of the venture capital fund; b) the amount of the investment; c) an accounting of any fees the venture capital fund paid to itself or any principal or manager, and d) the venture capital fund's average rate of return on its investments under the program.

4. For each business in which a venture capital fund held an investment of moneys contributed by the investment manager under the program: a) the name and

address of the business; b) a description of the nature of the business; c) an identification of the venture capital fund that made the investment; d) the amount of each investment in the business and the amount contributed by the venture capital fund; e) the internal rate of return realized by the venture capital fund on the investment; and f) a statement of the number of employees the business employed when the venture capital fund first invested in the business under the program, the number of employees the business employed on the first day of the investment manager's fiscal year, and the number of employees the business employed on the last day of the investment manager's fiscal year.

DOA must submit the investment manager's annual report to the legislature.

The investment manager must also submit a quarterly report to DOA for the preceding quarter that identifies each venture capital fund participating in the program, each business in which a venture capital fund held an investment under the program and the amount of each investment, and the number of employees each business employed when the venture capital fund first invested in the business under the program and the number of employees the business employed at the end of the quarter. DOA must publish the information contained in the investment manager's quarterly report on DOA's Internet site.

The substitute amendment also requires DOA to submit to JCF two progress reports, one in 2015 and one in 2018. Each report must include all of the following:

1. A comprehensive assessment of the performance to date of the investment program created in the substitute amendment.
2. Any recommendations DOA has for improving the investment program and the specific actions DOA intends to take or proposes to be taken to implement those recommendations.
3. Any recommendations SWIB has for improving the investment program and the specific actions SWIB proposes to be taken to implement those recommendations.

END ANALYSIS INSERT

INSERT 10-6

~~(8)~~ EXEMPTION FROM LOW BID AND CONTRACTUAL SERVICES REQUIREMENTS. Sections

16.705 and 16.75 do not apply to this section.

SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert

the following amounts for the purposes indicated:

		2013-14	2014-15
1			
2	20.505 Administration, department of		
3	(1) SUPERVISION AND MANAGEMENT		
4	(fm) Fund of funds investment pro-		
5	gram	GPR A 25,000,000	-0-
6	SECTION 2. 20.505 (1) (fm) of the statutes [✓] is created to read:		
7	20.505 (1) (fm) <i>Fund of funds investment program</i> . The amounts in the		
8	schedule for the venture capital investment program under s. 16.295 [✓] .		
9	SECTION 3. 25.17 (72) of the statutes [✓] is created to read:		
10	25.17 (72) Appoint the board's representatives to the committee under s.		
11	16.295 (3) (a) [✓] .		
12	END INSERT 10-6		



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBa0341/1
MPG:jld:rs

ASSEMBLY AMENDMENT 1,
TO ASSEMBLY BILL 181

May 6, 2013 – Offered by Representatives KUGLITSCH and CLARK.

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 5, line 11: delete the material beginning with “exceed” and ending with
3 “\$800,000” on line 13 and substitute “exceed, annually for no more than 4 years, 1
4 percent of the total moneys designated under sub. (5) (b) 1. and raised under sub. (5)
5 (b) 3”.

6 ✓ 2. Page 6, line 4: on lines 4 and 6, delete “attempt to invest” and substitute
7 “commit”.

8 ✓ 3. Page 6, line 4: on lines 4 and 6, after “moneys” insert “to investments”.

9 ✓ 4. Page 6, line 11: delete “Invest all of” and substitute “Make new investments
10 in an amount equal to”.

11 ✓ 5. Page 6, line 17: delete the material beginning with “If” and ending with “4.
12 and” on line 22 and substitute “The venture capital fund’s contract with a business

This is Insert 6-17

This is Insert 6-17 END

in which the venture capital fund makes an investment under this subdivision shall require that, if within 3 years after the venture capital fund makes that investment, the business relocates its headquarters outside of this state or fails to employ at least 50 percent of its full-time employees, including any subsidiary or other affiliated entity, in this state, the business shall promptly pay to the venture capital fund an amount equal to the total amount of moneys designated under par. (b) 1. that the venture capital fund invested in the business. The venture capital fund shall

✓ **6.** Page 7, line 1: delete "Invest" and substitute "Commit".

✓ **7.** Page 7, line 1: after "(b)" insert "to investments".

✓ **8.** Page 7, line 2: delete "invest" and substitute "commit".

✓ **9.** Page 7, line 3: after "moneys" insert "to investments".

✓ **10.** Page 7, line 12: delete "attempt to".

✓ **11.** Page 7, line 16: after "(a)" insert "and the quarterly report under sub. (7) (c)".

✓ **12.** Page 8, line 12: delete "ANNUAL REPORT OF THE INVESTMENT MANAGER" and substitute "REPORTS OF THE INVESTMENT MANAGER; PUBLIC DISCLOSURES".

✓ **13.** Page 8, line 12: substitute "120" for "90".

✓ **14.** Page 8, line 25: after that line insert:

"d. The venture capital fund's average internal rate of return on its investments of the moneys it received under sub. (5) (b).".

✓ **15.** Page 9, line 9: delete "on" and substitute "upon the venture capital fund's exit from".

✓ **16.** Page 9, line 18: after that line insert:

1 (c) Quarterly, the investment manager shall submit a report to the corporation
2 for the preceding quarter that includes all of the following: department

3 1. An identification of each venture capital fund under contract with the
4 investment manager under sub. (5) (d).

5 2. An identification of each business in which a venture capital fund held an
6 investment of moneys the venture capital fund received under sub. (5) (b) and a
7 statement of the amount of the investment in each business that separately specifies
8 the amount of moneys designated under sub. (5) (b) 1. that were contributed to the
9 investment.

10 3. A statement of the number of employees the business employed when the
11 venture capital fund first invested moneys in the business that the venture capital
12 fund received under sub. (5) (b) and the number of employees the business employed
13 at the end of the quarter. department departments

14 (d) The corporation shall make the investment manager's quarterly report
15 under par. (c) readily accessible to the public on the corporation's Internet site. J

16 (END)

This is Insert 9-18



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBa0414/1
MPG:cjs:ph

ASSEMBLY AMENDMENT 4,
TO ASSEMBLY BILL 181

May 10, 2013 - Offered by Representative CLARK.

AUTHORS SUBJECT TO CHANGE

At the locations indicated, amend the bill as follows:

1. Page 4, lines 2, 5, 9, 13 and 20: after "(a)" insert "1."


2. Page 4, line 13: delete "MANAGER" and substitute "MANAGER; CONTRACT APPROVAL".

3. Page 4, line 18: after that line insert:

2. When the corporation gives the notice under par. (b) 1., the corporation shall submit its proposed contract with the investment manager to the legislative audit bureau for review. The legislative audit bureau shall review the proposed contract and, within 14 days after it receives the proposed contract for review, submit to the joint committee on finance and the corporation a letter of review that evaluates the terms of the contract and offers an opinion concerning the extent to which the proposed contract terms conform to normal practices in the venture capital industry and the extent to which the contract implements subs. (4) to (7).

This is Insert 4-18

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

2 KRS
13s0052/P1dn
MPG: 

Date

Representative Kuglitsch:

Please review this draft carefully to ensure that it is consistent with your intent.

This draft substitute amendment to 2013 AB 181 places the fund of funds investment program under DOA instead of WEDC and incorporates AA 1 and AA 4 to AB 181. Because the substitute amendment requires DOA instead of WEDC to pay \$25,000,000 to the investment manager for fund of funds investments, the substitute amendment includes an appropriation authorizing DOA to make that expenditure in fiscal year 2013–14. As a result, because the biennial budget act repeals and recreates the appropriation schedule under s. 20.005 (3), stats., if this substitute amendment becomes law before enactment of the budget act and the budget act does not include the funding provided in the substitute amendment, the effect will be to eliminate that funding. Note also that the budget act currently contains language under ss. 16.004 (19) and 20.505 (1)(f), both created in AB 40, setting aside \$25,000,000 in fiscal year 2013–14 for a “capital investment program” to make “coinvestments in business startups and investment capital projects.”

X Note that AA 4 requires the legislative audit bureau to submit a letter of review to JCF that evaluates DOA's proposed contract with the investment manager based in part on “the extent to which the proposed contract terms conform to normal practices in the venture capital industry.” However, JCF is only authorized under the substitute amendment to reject the contract if JCF determines that the contract is contrary to or fails to implement an applicable provision of the proposed legislation—failure to conform to the normal practices in the venture capital industry is not an authorized basis upon which JCF may reject the contract. Do you want to include a requirement in the substitute amendment to the effect that the contract between DOA and the investment manager must conform to normal practices in the venture capital industry? Alternatively, you may want to consider removing the “normal practices” language. The contract between the investment manager and DOA is in large part statutory and is not likely to conform to the normal practices of the venture capital industry. See for example, the repayment terms required for the contract between DOA and the investment manager. Please let me know how you would like to proceed.

Please do not hesitate to contact me with any questions.

Thank you.

Michael Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0052/P1dn

MPG:kjf:jf

May 16, 2013 ¹⁷

Representative Kuglitsch:

Please review this draft carefully to ensure that it is consistent with your intent.

This draft substitute amendment to 2013 AB 181 places the fund of funds investment program under DOA instead of WEDC and incorporates AA 1 and AA 4 to AB 181. Because the substitute amendment requires DOA instead of WEDC to pay \$25,000,000 to the investment manager for fund of funds investments, the substitute amendment includes an appropriation authorizing DOA to make that expenditure in fiscal year 2013–14. As a result, because the biennial budget act repeals and recreates the appropriation schedule under s. 20.005 (3), stats., if this substitute amendment becomes law before enactment of the budget act and the budget act does not include the funding provided in the substitute amendment, the effect will be to eliminate that funding. Note also that the budget act currently contains language under ss. 16.004 (19) and 20.505 (1) (f), both created in AB 40, setting aside \$25,000,000 in fiscal year 2013–14 for a “capital investment program” to make “coinvestments in business startups and investment capital projects.”

Note that AA 4 requires the Legislative Audit Bureau to submit a letter of review to JCF that evaluates DOA's proposed contract with the investment manager based in part on “the extent to which the proposed contract terms conform to normal practices in the venture capital industry.” However, JCF is only authorized under the substitute amendment to reject the contract if JCF determines that the contract is contrary to or fails to implement an applicable provision of the proposed legislation—failure to conform to the normal practices in the venture capital industry is not an authorized basis upon which JCF may reject the contract. Do you want to include a requirement in the substitute amendment to the effect that the contract between DOA and the investment manager must conform to normal practices in the venture capital industry? Alternatively, you may want to consider removing the “normal practices” language. The contract between the investment manager and DOA is in large part statutory and is not likely to conform to the normal practices of the venture capital industry. See for example, the repayment terms required for the contract between DOA and the investment manager. Please let me know how you would like to proceed.

Please do not hesitate to contact me with any questions.

Thank you.

Michael Gallagher
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